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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,093	04/23/2004	Donald Wayne Jackson	P08159US01/RFH	7521
881	7590	05/31/2006	EXAMINER	
STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314			NGUYEN, THU V	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/830,093	JACKSON, DONALD WAYNE	
	Examiner	Art Unit	
	Thu Nguyen	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 6-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment filed on March 21, 2006 has been entered. By this amendment, all claims 1-21 are now pending in the application. Among the pending claims, claims 1-5, 15-21 have been examined in this office action.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon (US 6,570,486) in view of Smith (US 5,349,329) and further in view of Winner, Jr. et al (US 6,400,042).

As per claim 1, Simon teaches remote access device for a vehicle. The system comprises: a first electronic control device 24 (fig.3) mounted on the vehicle for transmitting a characteristic signal (col.4, lines 66-67; col.5, lines 1-2; col.6, lines 36-38); a second electronic control device 46 (fig.3) to be carried by a person for receiving the characteristic signal and for returning signal to the transmitter/receiver of the first control device (col.5, lines 24-27, lines 34-42, lines 59-67; col.6, lines 1-2). Simon does not explicitly disclose allowing the user to wear the transmitter, controlling continued operation of the vehicle, and the control unit that calculates the distance between the first and second control devices for disabling vehicle when the distance

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is greater than a predetermined distance. However, adapting the transmitter in a specific shape including a clip wearable to a person would have been well known and obvious matter of design choice, the well known feature is taught by Winner in col.6, lines 62-67 and in fig.2. Moreover, Simon teaches the controller 24 (fig.3) that is capable of controlling the actuator of devices (col.3, lines 35-38), and considering the signal strength in continuing operation of the vehicle (col.6, lines 35-45). Furthermore, Smith teaches controlling continued operation of the vehicle when a distance is within a predetermined distance (col.4, lines 11-33). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to disable the vehicle taught by Simon when the distance between the user and the vehicle is larger than a predetermined distance as taught by Smith in order to prevent hi-jacking situation in which the user is pushed away from the vehicle, it would also have been obvious to include a clip to the second electronic device of Simon in order to allow the user to wear the second electronic device to prevent the device to be accidentally left in the vehicle when the user is away from the vehicle.

As per claim 2, Smith suggests including a relay connected to the electrical system of the vehicle for opening the vehicle electrical system (col.7, lines 40-43). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement a relay circuit to the apparatus of Simon in order to facilitate selecting disabling or enabling of a specific actuator.

As per claim 3, Smith teaches connecting a relay contact to the ignition circuit to control disconnection of the ignition circuit (col.12, lines 6-21).

As per claim 4-5, Smith teaches electronic control circuit which can be any electrical power circuit (col.5, lines 24-28), moreover, with respect to claim 4, connecting a relay to the fuel injection control circuit for controlling fuel injection to enable or disable the operation of the vehicle would have been both known and obvious matter of design choice.

As per claim 15, Simon teaches radio signals (col.3, lines 41-48).

As per claim 16, shaping the remote control device in a particular appearance such as a well known shape of a pager would have been both known and obvious mater of design choice.

As per claim 17-21, refer to claim 1-5, and 15 above.

Response to Arguments

3. Applicant's arguments filed March 21, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument on page 1, last paragraph through page 2, first two paragraphs, and on page 4, it is true that Simon mainly discloses door opening and starting the engine. However, Simon does not absolutely teaches away from disabling the engine because in col.1, lines 17-20, Simon teaches that the remote control device can be used to arm security

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system. It is well known that arming security system usually includes disabling the vehicle engine when the security is deemed breached. Since Smith's disclosure involves vehicle security using similar signal communication between a user's carried device (first means in col.12, lines 37-38) and the in-vehicle device (the second means in col.12, lines 38-40), the security feature taught by Smith can obviously be incorporated to the user's carried device of Simon when the security feature is desired.

In response to applicant's argument on page 2, third paragraph concerning wearable device, the independent claims of the present application do not explicitly disclose that the user's carrying device is the "truly passive" system where no control is necessary as asserted. Beside, the user carrying device of the present application seems to include certain user control button as disclosed in para [0043]-[0045]. Paragraph [0048] further disclosed that the device worn by the user can be in the shape of a pager and a clip is used to attach the control device to the user's clothings. Actually, the device taught by Simon is a key fob (col.3, lines 10-11), it is known that the key fob can be attached to the user clothing using a clip. This well known clipping feature is taught by Winner (US 6,400,042) in col.6, lines 65-67, this reference is additionally cited herein just to support the examiner assertion concerning the well known feature, the citing of Winner does not mean that the examiner change the previous ground of rejection.

In response to applicant's argument on page 3, first paragraph, the independent claims do not explicitly disclose that both the first and second electronic control device include both the transmitters and receivers. Note that the claimed "transmitter/receiver" is perceived by the examiner as the "name" for the first and the second electronic devices. This name is used throughout the drawings fig.1 and 2 of the present application, however, the specification does

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not teaches that the apparatus 30 (fig.1) and 32 (fig.2) includes “both” the transmitter and receiver. If the applicant wish to claim that each device include both the transmitter AND the receiver, the applicant must explicitly disclose this using the word “AND” between the two elements; also the examiner requests support in the specification that specifically taught that the device 30 (fig.1) and 32 (fig.2) “each” includes “both” the transmitter and receiver. Besides the slash “/” may also means transmitter OR receiver. Therefore if the “/” is used to imply the elements of the device, the “/” will be rejected under 112 second paragraph as ambiguous because it is not clear if the “/” should be interpreted (or understood) as “and” or “or”. Since the transmitter/receiver disclosed in the independent claims as just a name of the device, the name “transmitter/receiver” does not imply any component structure of the device 12 or 38 of fig.1 and 2.

In response to applicant’s argument on page 3, last two paragraph, Smith explicitly discloses calculating the separate distance between the first and the second device (Smith col.12, lines 37-40). Concerning details on how the distance is calculated (based on lost pulses, etc.), the detail on how the distance is determined is irrelevant because the claims in the present application do not teach how the distance is determined either.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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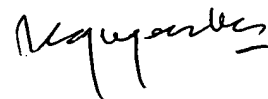
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Nguyen whose telephone number is (571) 272-6967. The examiner can normally be reached on T-F (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 29, 2006



**THU V. NGUYEN
PRIMARY EXAMINER**